held that the appointment of a receiver for the insolvent lessee does not prevent the enforcement of a right to damages. *People* v. *St. Nicholas Bank,* 151 N. Y. 592, 45 N. E. 1129; *Wooland* v. *Wise,* 112 Md. 35, 76 Atl. 502; *Chicago Fire Place Co.* v. *Tait,* 58 Ill. App. 293; *Bolles* v. *Cresent, etc., Co.,* 53 N. J. Eq. 614, 32 Atl. 1061. It has been held, however, that such claims are not provable. *Fidelity Safe Deposit, etc., Co.* v. *Armstrong,* 35 Fed. 567. And, in cases involving claims for the breach of executory contracts other than those for personal services or lease, the weight of authority is that the appointment of a receiver does prevent the enforcement of a right to damages. *Wells* v. *Hartford Manilla Co.,* 76 Conn. 27, 55 Atl. 599; *Scott* v. *Rainier Power & Ry. Co.,* 13 Wash. 108, 42 Pac. 531; *Griffith* v. *Blackwater Boom & Lumber Co.,* 55 W. Va. 604, 48 S. E. 442, 69 L. R. A. 124. But, on reason, it would seem that the minority rule adopted in the principal case commends itself because of the equitable manner in which it distributes the funds of the insolvent corporation among all of those who are in fact damaged by the insolvency. See *Pennsylvania Steel Co.* v. *New York City Ry. Co.* (C. C. A.), 198 Fed. 721.

COURTS—CONCURRENT FEDERAL AND STATE JURISDICTION—TRADE-MARKS. —The Federal Trade-Mark Act of Feb. 20, 1905, provides that the owner of a trade-mark employed in interstate and foreign commerce shall have a right to its exclusive use, and that certain federal courts shall have jurisdiction of all suits arising thereunder. A suit was instituted in a state court to restrain the infringement of a trade-mark acquired under the act; and the jurisdiction of the court was contested on the ground that the federal courts only could take cognizance of such causes. *Held,* state courts have concurrent jurisdiction. *Oneida Community, Ltd.* v. *Oneida Game Trap Co., Inc.,* 154 N. Y. Supp. 391.

State courts may exercise concurrent jurisdiction with the federal courts in all cases arising under the Constitution, laws, and treaties of the United States, provided they possess jurisdiction over the subject matter independent of national authority and such jurisdiction has not been vested exclusively in the federal courts. *Claflin* v. *Houseman,* 93 U. S. 130; *Robb* v. *Connolly,* 111 U. S. 624. See *The Moses Taylor,* 4 Wall. 411. State courts have jurisdiction of causes of action involving the acquisition of trade-marks and the rights of the owner thereunder independent of any national authority. *Gato* v. *El Modelo Cigar Mfg. Co.,* 25 Fla. 886, 7 South. 23, 6 L. R. A. 823; *Burt* v. *Tucker,* 178 Mass. 493, 59 N. E. 1111, 52 L. R. A. 112. Therefore, a cause of action arising under the Trade-Mark Act may be asserted in the state courts, unless the language of the act is such as vests exclusive jurisdiction in the federal courts. Where a statute creating a right fails to designate the court or courts in which the right may be enforced, resort may be had to either a state or federal court, provided, of course, such courts have jurisdiction over the subject matter. *Claflin* v. *Houseman,* 93 U. S. 130; *Robb* v. *Connolly,* 111 U. S. 624. It seems that there is an equal right on the part of the state courts to take cognizance of cases arising under federal statutes where they have jurisdiction over the subject matter, notwithstanding the fact that Congress has desig-

nated the federal courts which may take jurisdiction. The state courts may constitutionally take jurisdiction in such cases, unless exclusive jurisdiction is vested by Congress in the federal courts, and nothing short of an express exclusion or necessary implication should be construed to divest the state courts of such jurisdiction. See *Dudley* v. *Mayhew,* 3 N. Y. 9.

COURTS—EQUITY JURISDICTION OF FEDERAL COURTS — EFFECT OF STATE STATUTE.—A state statute provided that any person who paid a tax which for any reason was erroneous or illegal, might recover the same from the county commissioners. Prior to the enactment of this statute a tax-payer's only protection was by an injunction, prohibiting the collection of the tax. *Held,* the statute provided a complete and adequate remedy at law; and in the absence of other equitable circumstances, a federal court of equity would no longer grant an injunction. *Union Pac. R. Co.* v. *Board of Commissioners,* 222 Fed. 651. See NOTES, p. 227.

LANDLORD AND TENANT—DEFECTIVE PREMISES — IMPLIED WARRANTY.—A plaintiff leased premises on which were latent defects unknown to the lessor and to himself. The lessee was injured because of the defects; and sued the lessor on an implied warranty of fitness. *Held,* the rule of *caveat emptor* applies. and there is no implied warranty. *Davis* v. *Manning* (Neb.), 154 N. W. 239.

The holding of the principal case merely registers an approval of the doctrine upheld by an overwhelming majority of courts. This doctrine, as usually stated, is that the rule of *caveat emptor* applies to leases of real estate; and in the absence of warranty, deceit, or fraud on the part of the lessor, the lessee can not recover for personal injuries received through latent defects therein, of which the lessor had no knowledge at the time of the making of the lease and which were as patent to the lessee as to the lessor. *Renard* v. *Grenthal,* 81 Misc. Rep. 135, 142 N. Y. Supp. 328; *Walsh* v. *Schmidt,* 206 Mass. 405, 92 N. E. 496, 34 L. R. A. (N. S.) 798; *Rhoades* v. *Seidel,* 139 Mich. 608, 102 N. W. 1025; *Land* v. *Fitzgerald,* 68 N. J. L. 28, 52 Atl. 229. If the defects are actually known to the landlord and are such as can not be discovered by a reasonable examination, the landlord is liable to the tenant for injuries caused by those defects. *Howard* v. *Washington Water Power Co.,* 75 Wash. 255, 134 Pac. 927; *Ames* v. *Brandvold,* 119 Minn. 521, 138 N. W. 786. But the landlord is not liable for a failure to exercise reasonable care to discover such defects. *Kurtz* v. *Paul,* 158 Wis. 534, 149 N. W. 143; *O'Malley* v. *Twenty-Five Associates,* 178 Mass. 555, 60 N. E. 387; *Whitmore* v. *Orono Pulp & Paper Co.,* 91 Me. 297, 39 Atl. 1032, 64 Am. St. Rep. 229. *Contra, Willcox* v. *Hines,* 100 Tenn. 538, 46 S. W. 297, 66 Am. St. Rep. 770, 41 L. R. A. 228.

MASTER AND SERVANT—INJURIES TO SERVANT—SAFE PLACE.—The plaintiff and another, employees of the defendant company and experienced workmen, were directed to make certain indicated repairs to a box car; and were left entirely to their own methods. The nature of the